

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

FRAY LYNCH,

Plaintiff,

v.

CITY OF WILMINGTON

Defendant.

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C.A. NO. 06-351 JJF

JURY TRIAL DEMANDED

**DEFENDANT CITY OF WILMINGTON’S MOTION FOR
LEAVE TO FILE A MEMORANDUM OF POINTS AND
AUTHORITIES IN LIEU OF AN OPENING BRIEF**

COMES NOW, Defendant, City of Wilmington, by and through its undersigned counsel, and hereby requests that this Court accept its Memorandum of Points and Authorities in Support of its Motion for Joinder of an Indispensable Party Under Rule 19, or Alternative Motion to Dismiss Pursuant to Civil Rule 12(b)(7), filed simultaneously herewith in lieu of an Opening Brief.

1. Dist. Ct. L.R. 7.1.2(b) provides that “[t]he Court may order or the parties may agree to serve and file . . . statements of points and authorities in memorandum form in place of briefs.” The within Memorandum of Points and Authorities arises for a procedural issue of whether Plaintiff must join an additional co-defendant under Civil Rule 19.

2. The procedural grounds for joinder and/or dismissal do not require complex factual analysis, but merely require an application of the Rules of Civil Procedure. In furtherance of judicial economy, Defendant requests that the Court allow the filing of a Memorandum of Points and Authorities, in lieu of an Opening Brief, so as to speedily and efficiently resolve this procedural issue.

WHEREFORE, Defendant City of Wilmington respectfully requests permission to file a Memorandum of Points and Authorities in lieu of an Opening Brief, pursuant to D. Del. L.R. 7.1.2(b).

/s/ Alex J. Mili, Jr.
Alex J. Mili, Jr., Esquire, (I.D. #4125)
Senior Assistant City Solicitor
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Attorney for Defendant

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ORDER

IT IS HEREBY ORDERED that on this _____ day of _____, 2006,
Defendant City of Wilmington's Motion for Leave to file a Memorandum of Points and
Authorities in lieu of an Opening Brief is **GRANTED**.

J.

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CERTIFICATE OF SERVICE

I, Alex J. Mili, Jr, Esquire, hereby certify that on this 29th day of September, 2006, a copy of the Defendant's Motion for Leave to File Memorandum of Points and Authorities in Lieu of an Opening Brief, was served with the Clerk of Court using CM/ECF, which will send notification of such filing(s) to the following, and will further notify that this document is available for viewing and downloading from CM/ECF:

Kester I. H. Crosse, Esquire
1214 King Street
Wilmington, DE 19801

CITY OF WILMINGTON LAW DEPARTMENT

/s/ Alex J. Mili, Jr.
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